

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

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Authority

Under section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA), NMFS may issue permits for scientific research purposes or to enhance the propagation or survival of species listed as threatened or endangered under the ESA. The authorization provided by these permits exempts the permit holder from the prohibitions of ESA section 9, in particular those dealing with take. *Take* is defined by the ESA as: "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Permitted activities must not operate to the disadvantage of the listed species and must provide a bona fide and necessary or desirable scientific purpose or enhance the propagation or survival of the listed species. NMFS traditionally issues permits for up to five years, although permits for longer periods of time have been issued. Permits include any conditions necessary to mitigate and monitor the impacts of the proposed activities. These application instructions are drawn from, but do not substitute for, the ESA section 10 regulations at 50 CFR §222.308. Applicable state laws or regulations prevail in all cases where they are more restrictive. Possession of a section 10(a)(1)(A) permit should be regarded as a privilege in that NMFS must balance permit issuance with its duties to protect and recover listed species.

Do I Need to Apply for a Permit?

If you determine that your proposed activity would *directly take* a listed species (i.e., the listed species is the subject of your proposed activity, and conducting it would likely result in the species being harassed, captured, harmed, possessed, or killed) and your planned activity is otherwise lawful, a section 10 (a)(1)(A) permit is required. Examples of activities that may require a section 10 (a)(1)(A) permit include: surveys, genetic research, hatchery operations, relocations, capture and marking, and telemetric monitoring. Under certain circumstances, a section 10(a)(1)(A) permit may also be required for you to possess listed species' tissues or body parts.

If you are engaged in an otherwise lawful activity where a listed species may be adversely affected, and the purpose of your activity is not scientific research or species enhancement, you may need to obtain a section 10(a)(1)(B) permit (*Incidental Take Permit*). Examples of activities that may require a section 10(a)(1)(B) permit include: state sportfishing programs, non-listed fish stocking programs, and other instream or watershed activities which may affect listed species. If your proposed activities require an incidental take permit, you will need to use the

section 10(a)(1)(B) instructions. These are available at the addresses listed below under *Where Do I Send the Application?* and at the NMFS Office of Protected Resources web site, http://www.nmfs.noaa.gov/pr/permits/esa_permits.htm

If you still have questions, you may want to consult the Pre-Application Guide (PAG) on the Authorizations and Permits for Protected Species website. The PAG will walk you through a series of questions to help you determine what type of permit you need and whom you should contact. The PAG can be found at <http://apps.nmfs.noaa.gov/>.

Before applying for an individual permit, you should determine if your proposed project is a part of another authorized activity. To minimize duplication—and the impact on listed species—you are strongly encouraged to coordinate with others doing similar work. If two investigators are collaborating on the same activities, they should apply for a single permit. Also, if you are conducting your proposed activities in response to a Federal Agency requirement, you may not need a section 10 (a)(1)(A) permit. For example, fish surveys required by an ESA section 7 biological opinion may be authorized in the opinion's Incidental Take Statement and no section 10 permit would be needed.

Am I Using the Appropriate Application Instructions?

These instructions are for permits for research and/or enhancement activities involving listed Pacific salmon and steelhead. They can be downloaded from:

http://www.nmfs.noaa.gov/pr/permits/esa_permits.htm

Permits for marine mammal species and non-salmonid threatened and endangered species (e.g., shortnose sturgeon, sea turtles, white abalone), please use the application instructions available at: <http://www.nmfs.noaa.gov/pr/permits/>

For terrestrial or freshwater species, or land-based sea turtle activities, please contact the appropriate regional office of the U.S. Fish and Wildlife Service:

<http://www.fws.gov/r9irmtsb/regional.html>

When Should I Apply?

To allow for processing time, you are urged to apply at least six months before you need to start your proposed activities, though certain permit actions may take even longer to process.

What Should I Include in the Application?

A permit application should provide all of the information requested below and, for processing efficiency, it should be displayed in the same structure and format. We will use the information

that you provide to determine whether your application is complete and whether to issue a permit for the proposed activities. If a section does not apply to your activities, please do not skip the section, simply mark it "not applicable" or "N/A." Applicable information should be detailed enough to provide a complete picture of your proposed activities. Incomplete or vague information will delay processing. Please note that specific wording is required for the title and closing statement. If you already have a project proposal, you may attach the proposal and reference the appropriate sections of it when filling out your application.

Should I Send a Review Draft?

It is often helpful to draft an application and send it to us for review before mailing your final application. Send the draft electronically (contact the appropriate office for a current email address). Our staff will review your application and help you if there are any difficulties. Once the application is complete, you must send a signed copy to the appropriate office.

Where Do I Send the Application?

Mail one signed original of the complete, final application to the appropriate address below. You should also submit a copy electronically (on disk or by e-mail) to help speed processing. If you need help completing your application, submit a draft to the appropriate office or contact them directly.

Permits for marine and anadromous species in the Pacific Northwest:

Chief, Protected Resources Division
National Marine Fisheries Service - F/NWO3
1201 NE Lloyd Boulevard, Suite 1100
Portland, Oregon 97232-1274
Phone: 503-230-5400
Fax: 503-230-5441

Permits for marine and anadromous species in California:

- NMFS Northern California Coast Salmon Supervisor, Protected Resources Division
National Marine Fisheries Service
1655 Heindon Road
Arcata, CA 95521
Phone: (707) 825-5163 Fax: (707) 825-4840
- NMFS Central California Coast Salmon Supervisor, Protected Resources Division
National Marine Fisheries Service
777 Sonoma Ave., Room 325

Santa Rosa, CA 95404
Phone: (707) 575-6050 Fax: (707) 578-3435

- NMFS California Central Valley Salmon
Supervisor, Protected Resources Division
National Marine Fisheries Service
650 Capitol Mall, Suite 8-300
Sacramento, CA 95819
Phone: (916) 930-3600 Fax: (916) 930-3629
- NMFS Southern California Salmon
Supervisor, Protected Resources Division
National Marine Fisheries Service
501 West Ocean Blvd
Long Beach, CA 90802-4250
Phone: (562) 980-4020 Fax: (562) 980-4027

What is Involved in Processing a Permit Application?

Once we receive a *complete* permit application, it is subject to a 30-day public comment period. The 30-day public comment period begins when a "notice of receipt" is published in the *Federal Register* (required by regulations). We may also distribute the application for review by scientific and technical experts, resource managers, and/or other Permit Holders. After the 30-day public comment period, we will forward a summary of the comments for the applicant to address. The applicant must submit a written response.

We must then conduct an ESA section 7 consultation on the proposed activity. This, in turn, results in a biological opinion on the activity. To issue a section 10(a)(1)(A) permit for any activity, NMFS' biological opinion must conclude that the proposed activity is not likely to jeopardize the continued existence of any ESA-listed species nor destroy nor adversely modify any species' designated critical habitat.

In addition, we may be required to conduct the following consultations on the potential effects of the activity proposed in the application: (1) Consultation with U.S. Fish and Wildlife Service regarding potential effects on species under their jurisdiction, (2) consultation between NMFS' Protected Species Division and NMFS' Habitat Conservation Division regarding any activities taking place in Essential Fish Habitat (EFH), and (3) consultation with the National Ocean Service if the action takes place in a National Marine Sanctuary. Any issues that arise during these consultations may delay the permit process.

Finally, we may be required to conduct an analysis under the National Environmental Policy Act (NEPA) if a proposed activity is one designed to enhance the propagation and/or survival of an ESA-listed species (e.g., hatchery supplementation programs or fish salvage operations). That

analysis usually consists of an Environmental Assessment (EA) on the action of issuing a section 10(a)(1)(A) permit with conditions. In general, scientific research permits are categorically excluded from the need to conduct an analysis under NEPA.

After we receive responses from the applicant to the public comments and complete a biological opinion (and any other required consultations), we will decide whether or not to issue the permit. In order to issue such a permit, we must find that it: (1) Was applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of listed species subject to the permit, and (3) will be consistent with the purposes and policies set forth in the ESA. We will then notify the applicant of the decision and publish a notice about the decision in the *Federal Register* (required by regulations).

How Do I Modify an Existing Permit?

A request to modify an existing permit should address all sections of these instructions relevant to the requested change and include a detailed description and justification of the proposed changes. Modification requests involving an increased number of animals, increased risk to the species, additional listed species, or significant changes in the nature or location of activities may be subject to a 30-day public review period and reconsultation on the effects of issuing the modified permit.

Paperwork Reduction Act and Confidentiality Information

An applicant must submit the information requested in the following instructions to obtain an ESA section 10(a)(1)(A) permit. We will use that information to process the permit request in accordance with the ESA. The information provided is not confidential and is subject to public review and comment.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB (Office of Management and Budget) Control Number. In addition, persons are not required to retain records for more than three years unless those records are health, medical, government contract, grant-in-aid, or tax records.

NMFS estimates that the average time to compile an application in accordance with these instructions is 30 hours. This includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the application. For annual permit reports, NMFS estimates average response time at 10 hours per report. You may send comments regarding these estimates or any other aspect of this information collection, including suggestions for reducing this burden, to the addresses under *Where Do I Send the Application?*

Information to Include in the Application

- A. **Title:** Use one of the titles below, exactly as worded, and provide a brief Project Name.

Title

1. Application for Permit for Scientific Purposes under the Endangered Species Act of 1973. (If the proposal is for field surveys, genetics research, etc.)
2. Application for Permit to Enhance the Propagation or Survival of Listed Species under the Endangered Species Act of 1973. (If the proposal is for fish hatchery operations, etc.)
3. Application for Permit for Scientific Purposes and to Enhance the Propagation or Survival of Listed Species Under the Endangered Species Act of 1973. (If the proposal is for activities that fall under both categories 1 and 2 above)
4. Application for Modification of Existing Permit.

Project Name

Describe the project in 20 words or less (e.g., Salmonid Use of Restored Estuarine Wetlands: Regional Application of the Salmon River, Oregon, Estuary Study).

- B. **Species:** List all species and Evolutionarily Significant Units (ESUs) and/or populations for which you request take authority.
- C. **Date of Permit Application:** Date you are sending the application. If you submit subsequent versions of the application (after you receive guidance from NMFS) update the dates to reflect the date the updated version is sent.
- D. **Applicant Identity:** The applicant is the individual and/or agency responsible for ensuring compliance with permit conditions, and may represent a group of individuals actually performing the activities (e.g., employees, partners, agents, and/or contractors). Please include the following information about the permit applicant:
1. Applicant's name and position title
 2. Institution or agency name
 3. Mailing address
 4. Telephone number
 5. Fax number
 6. Email address

If NMFS should be coordinating with a contact person different from the applicant, also include the same information (1-6 above) for the principal contact. Attach résumés, if any, at the end of the application or provide them in a separate document.

E. **Information on Personnel, Cooperators, and Sponsors:** If the same person or entity will hold several roles, you may state their address information once and refer back to it.

1. If the applicant will not be the sole person conducting the proposed activities, provide the names, email addresses, phone numbers, and résumés for each Principal Investigator and Field Supervisor. A Principal Investigator is ultimately responsible for the project and compliance with the permit conditions. A Field Supervisor (who may also be the Principal Investigator), is anyone who supervises or carries out the activities in the field without supervision, and will also be responsible for compliance with the permit conditions. Attach résumés, if any, at the end of the application or provide them in a separate document.
2. To the extent possible, provide a list of field personnel.
3. Provide the name, title, agency, phone number, and any other appropriate contact information for all sponsors, cooperating institutions, etc.
4. If the proposed activities will be conducted by a contractor, provide a statement that a qualified member of your staff (include name(s) and qualifications) will supervise or observe the taking. Include a copy of the proposed contract or a letter from the contractor indicating agreement to operate under any and all permit conditions, should a permit be granted.
5. Provide a description of the arrangements for the disposition of any tissue samples, dead specimens, or other remains. If you will not retain samples, state that samples will be returned to their capture site (see section H.2.). If you are going to retain tissue samples (including whole fish), either in a museum or other institution for the continued benefit to science, include information on where the samples will be stored, transferred, and how/when/where they will be disposed. Include the list of researchers, laboratories, museums, and/or institutional collections that would receive these tissue samples or specimens. Please include name, address, contact, and phone number for each.
6. For transport and long-term holding of listed species (see Section I), provide the qualifications and experience of all staff responsible for care without supervision, including a written certification from a licensed veterinarian knowledgeable about the requested species (or similar species), or from a recognized expert on the species (or similar species) that he/she has personally reviewed the criteria for transporting and maintaining the animal(s) and that in his/her opinion they are adequate to provide for the well-being of the animal. Include the name, address, email, and phone number of this veterinarian, consulting expert, or equivalent who will be available during the proposed activities.

F. **Project Description, Purpose, and Significance:** Describe the purpose of your study or project. If available, attach a copy of the formal project proposal or contract, including the contract number, to your application. You may reference the appropriate section of the proposal/contract in response to a particular question.

1. A justification of the objective(s): motivation, history, goals, etc. State how the listed species will benefit from the proposed activities. Begin with a brief description of the purpose of the research (30 words or less). *For example: The purposes of the research are to assess watershed conditions and factors limiting salmonid health and production, and evaluate watershed health under the Northwest Forest Plan.*
2. A statement of whether or not the proposed project or program responds directly or indirectly to a recommendation or requirement of a Federal agency (Include citations if applicable). Identify any secured or proposed Federal funding source(s) for the proposed activities, including names, addresses, and phone numbers of the sponsors, cooperating institutions, etc.;
3. A statement of whether or not the proposed project or program has broader significance than the individual project's goals, or is part of a larger scale research management or restoration plan (Include citations if applicable);
4. A description of any relationships or similarities of the proposed activities to other proposed or ongoing projects and programs, and whether the potential exists to cooperate and coordinate with other similar studies or activities. (Include citations if applicable); and
5. A justification for using listed species in the study or activities, and a discussion of possible alternatives to using listed species.

G. **Project Methodology:** Provide a detailed description of the project, or program, in which the listed species is to be used, including:

1. The proposed duration of the project or program, including start and end dates. Provide the date the project is scheduled to start. Be realistic. Use a start date, whenever possible, that is at least six months after the application is submitted. Use an end date that covers all possible scenarios, or up to five years from the start date. If the project or program will continue into the foreseeable future, provide the rationale for the extended time frame. Provide times during the year that specific activities will occur. Be specific if multiple activities are proposed (e.g., spawning surveys from October to December; juvenile trapping from April to June).

2. A discussion of the procedures and techniques which will be used during the project. Begin with a BRIEF description of the capture methods (seine, backpack electrofishing, etc.) and a brief description of any “intrusive methods” (anesthetic, tagging, marking, tissue samples, etc.). *For example: Listed fish will be captured (using boat electrofishing, fyke nets, and minnow traps), anesthetized, measured, checked for tags, marked, sampled for stomach content, and released.* Follow with more specific descriptions that will allow us to assess the activities. The discussion should include, at a minimum:
 - a. Method(s) of capture and of release;
 - b. The sampling schedule, including locations and dates if available. Be as specific as possible. Locations should be listed from general to most specific, including bodies of water, rivers, tributaries, streams or creeks, and a geographical descriptor (e.g., Columbia River, Snake River, Imnaha River, River Mile 42). Include latitude/longitude coordinates, if possible. Include 4th field hydrologic units (HUCs) whenever possible.
 - c. A description of any tags, including the attachment method, location, and special handling/holding associated with the tagging;
 - d. A description of type and dosage of any drugs to be used, purpose of use, and method of application;
 - e. Temporary holding time prior to release of the individual(s) and the manner in which they will be detained. For transport and long-term holding, please fill out section I *Transportation and Holding*; and
 - f. Number and types of samples to be taken from each individual, including sampling protocol.
3. A discussion of possible alternatives to using the proposed methods. If applicable, you should try to anticipate alternative scenarios due to circumstances such as changes in environmental conditions, annual variations in species abundance, necessary changes in proposed procedures, etc. Such scenarios should be addressed in the *Description and Estimates of Take* section below if they affect the nature or amount of potential take of listed species. This planning may avoid the potentially lengthy process of modifying the permit.
4. A discussion of the potential for injury or mortality to the species involved, and the steps that will be taken to minimize adverse effects and to ensure that the species will be taken in a humane manner.

- H. **Description and Estimates of Take:** Issued permits define a specific number of individuals of each species that can be taken under the approved study or project. You must provide sufficient detail in the attached table (see last page) for NMFS to determine the species, population group, and estimated number of individuals to be taken by each activity. You should also describe the specific life stage, and origin, (and sex, if appropriate) of the listed species targeted. Take into account alternative scenarios identified above in the *Project Description, Purpose, and Significance* section.

Provide a separate table for each project, activity, or location, if appropriate. Attach the table at the end of the application. In addition, include:

1. Describe the recent status and trends of each ESU/species proposed to be taken (include citations where possible). NMFS already possesses information at the ESU level (see various NMFS web sites), so there is no need to repeat it in your application. We are seeking new data here—specifically, status and trend data on any distinct populations the proposed action is likely to affect. Such information will help us evaluate the probable impacts of the proposed research.
2. Provide a justification for all potential mortalities by take category. You should explain how you determined the numbers of listed species that would be killed, either intentionally (direct mortality, lethal take) or unintentionally (indirect mortality). You may reference section G.4. in explaining mortality rates.
3. Provide details on how all take estimates, including mortalities, were derived. Include citations when applicable.
4. Include a statement as to whether or not any USFWS listed species would be affected. If any would be, include which species and DPS' and the authority you have to take those species (permit, consultation, agreement).

I. **Transportation and Holding**

1. **Transportation of a Listed Species:** Provide a description of how any live individuals taken from the capture site or other facility (including rescue and relocation activities) will be transported including:
 - a. Mode of transportation and name of transportation company, if applicable.
 - b. Length of time in transit for the transfer of the individual(s) from the capture site to the holding facility or to the target location.

- c. Length of time in transit for any planned future move/transfer of the individual(s).
 - d. The qualifications of the common carrier or agent used for transportation of the individual(s).
 - e. A description of the tank, container, or other devices used both to hold the individual(s) at the capture site and during transportation.
 - f. Special care before, during and after transportation (e.g., use of oxygen, temperature control, anesthetics, antibiotics, etc.)
2. **Holding of a Listed Species:** Describe the plan for care and maintenance of any live individuals, including a complete description of the facilities where any such individuals will be maintained including:
- a. The dimensions of the tank(s) or other holding facilities and the number of individuals, by species, life stage, and origin, to be held in each.
 - b. The water supply, amount, and quality, including controls on temperature and dissolved oxygen.
 - c. The amount and type of diet used for all individuals, and food storage.
 - d. Sanitation practices used.
3. **Emergency contingencies:** Identify emergency contingencies- e.g., backup life support systems, alarm systems, redundant water and oxygen supply, release or destroy decision chains, etc.
- J. **Cooperative Breeding Program:** You MUST include a statement of willingness to participate in a cooperative breeding program and to maintain or contribute data to a breeding program, if such action is requested.
- K. **Previous or Concurrent Activities Involving Listed Species:**
- 1. Identify all previous permits where you were the permit holder or primary investigator working with federally-listed species; identify which species.
 - 2. For the above permits, list all mortality events of listed species that have occurred in the last five years.
 - a. List the ESU/species, life stage, origin, and population where applicable;

- b. Describe the number and causes of mortalities; and
- c. Describe the measures that have been taken to diminish or eliminate such mortalities, and the effectiveness of those measures.

L. **Certification:** You must include the following paragraph, exactly as worded, followed by the applicant or responsible party's signature, name, position title, and date:

"I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand this information is submitted for the purpose of obtaining a permit under the Endangered Species Act of 1973 (ESA) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the ESA."

Signature

Date

Name and Position Title (print)

Attach résumés here or submit it/them as a separate document.

M. **Length of Time and Cost to Prepare Application (Optional):** The public burden of these application instructions is evaluated periodically by the Office of Management and Budget under the Paperwork Reduction Act. Your response will help improve the accuracy of the estimates given for evaluation. You may send comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, to the Chief, Endangered Species Division, at the address under *Where Do I Send the Application?*

1. Please estimate the length of time, in hours, it took to compile this application.
2. Please estimate the cost, in \$US, of compiling this application, excluding the labor hours identified in 1. above. This estimate should include: cost of paper, printing, mailing, photocopying, etc.

Anticipated Annual Take

Use this table to specify anticipated types and numerical estimates of annual take for listed species during individual research or enhancement activities. Use a separate table for each discrete project or location **and label tables accordingly**. Each row must be explained in the application. All mortalities must be justified.

Location/Project: (if needed)

ESU/ Species and population group if appropriate	Life Stage	Origin	Take Activity	Number of Fish Requested	Requested Unintentional Mortality	Research Location	Research Period
Example: PS Chinook Salmon	Juvenile	Natural	Capture, handle, PIT tag, release	1,000	30/1,000	Lake Washington	May- August
Example: PS Chinook Salmon	Juvenile	Listed Hatchery Clipped Adipose	Intentional mortality	50	N/A	Southwest Washington	June

ESU/Species: List each ESU and Species (and populations, if appropriate) you are requesting to take. Include common and scientific names.

Life Stage: Specify fry, juvenile, smolt, pre-spawned adult, post-spawned adult (also note if live or dead when captured). You may combine juvenile (fry, juvenile, smolt) life stages.

Origin: Specify if the individuals are natural (wild), listed hatchery with intact adipose fins, or listed hatchery with clipped adipose fins. Do not include unlisted hatchery fish.

Take Activity: Specify only one of the following for each line:

- Collect for transport (including rescue/salvage)
- Capture, handle, release
- Capture, handle, tag, mark, tissue sample, and/or other invasive procedure, release
(Enter one or more intrusive procedure; you may combine or split.)
- Intentional mortality (lethal take, direct mortality)
- Removal (e.g., for broodstock collection)
- Other take (specify)

Number of Fish Requested: Enter the number of fish that you are requesting for each Take Activity.

Requested Unintentional Mortality: Enter the number of fish that might die as an unintended result of the Take Activity. Enter it as a number OUT OF the number of fish requested for each Take Activity. Use N/A when Take Activity = Intentional mortality.

Research Location: Enter a location for each take. Identify locations that are more specific than whole project. Enter to the 4th field hydrologic unit code (HUC) whenever possible.

Research Period: Enter a range of dates. Identify dates if more specific than project as a whole.